

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOVIE DEWDROP LEEN,

Plaintiff,

v.

E. MONTEJO,

Defendant.

Case No. 2:20-cv-02231-DAD-JDP (PC)

ORDER GRANTING DEFENDANT'S THIRD
MOTION TO MODIFY THE DISCOVERY
AND SCHEDULING

ECF No. 40

The court previously issued a scheduling order that provided, among other things, that all dispositive motions were to be filed by July 15, 2022. ECF No. 31 at 5. One week before the dispositive motion deadline, defendant sought a sixty-three-day extension of time to file a dispositive motion. ECF No. 32. Defendant's counsel stated that he needed additional time to file a dispositive motion due to previously set deadlines and pending tasks in other cases. ECF No. 32-1 at 2. I granted defendant's motion and extended the deadline to September 16, 2022. ECF No. 33.

On September 8, 2022, defendant filed a substitution of attorney, ECF No. 36, and on September 12, 2022, he filed a second motion to modify the scheduling order, ECF No. 38. Defendant, through his new attorney, sought an additional ninety days to file a dispositive motion. *Id.* I again granted that request and extended the deadline to December 15, 2022. ECF No. 39. Defendant has now filed his third request to modify the scheduling order, seeking to extend the

dispositive motion deadline by an additional ninety days. ECF No. 40.

A district court's scheduling order may be modified only upon a showing of good cause. Fed. R. Civ. P. 16(b)(4). The "good cause" inquiry focuses primarily on the diligence of the party seeking to amend the scheduling order. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). Accordingly, the pretrial scheduling order may be modified if its deadlines "cannot reasonably be met despite the diligence of the party seeking the extension." *Id.*

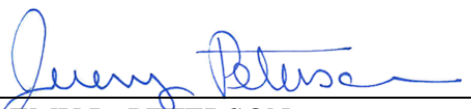
Defendant's counsel explains that due to the volume of documents he needs to review for this case and his commitments on other cases, he needs more time to prepare defendant's motion for summary judgment.¹ Defendant's motion describes the various tasks he has diligently completed in other cases. It does, not, however, specify the work, if any, counsel has performed for this action over the prior three months. While I am sympathetic to the burden of managing a heavy caseload, counsel's obligations to other cases cannot continue to give way to those imposed in this case. Nevertheless, given the relatively recent substitution of counsel, ECF No. 36, I will grant defendant one final extension of the deadline to file dispositive motion.

Accordingly, it is hereby ORDERED that:

1. Defendant's motion to modify the discovery and scheduling order, ECF No. 40, is granted.
2. The deadline to file dispositive motions is extended to March 15, 2023.
3. Absent a showing of extraordinary cause, no further modifications to the scheduling order will be granted.

IT IS SO ORDERED.

Dated: December 16, 2022


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE

¹ Counsel states that the file for this case contains more than 38,000 pages of material.